

Appln. No. 09/943,883
Amendment dated July 10, 2006
Reply to Office Action mailed April 13, 2006

REMARKS

Reconsideration is respectfully requested.

Claims 1 through 9 and 28 through 34 remain in this application. Claims 10 through 23 and 28 have been cancelled. Claims 24 through 27 have been withdrawn. Claims 35 through 39 have been added.

The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

Paragraph 1 of the Office Action

Claims 1 through 9 have been rejected under 35 U.S.C. §112 (second paragraph) as being indefinite.

The above amendments to the claims are believed to clarify the requirements of the rejected claims, especially the particular points identified in the Office Action.

More specifically, with respect to claim 1, it is noted that a data entry device is described at page 4, lines 13 through 15 ("originating user network appliance 150, and is shown in Figure 2 ("originating other user 150") and is shown in greater detail in Figure 3 (computer system 330, which is described in further detail at page 5, line 23 through page 8, line 8). It is further noted that the notification function is discussed in the specification at page 4, lines 8 through 11 and page 4, line 30 through page 5, line 3, and may be performed, for example, by the originating user appliance or the server. Also, the accumulator function is described at page 3, lines 28 through 31, and may be performed by the originating user appliance or server.

With respect to claim 2, "the selected users" has been changed to "the other selected users".

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With respect to claim 3, the recitation has been changed to "wherein the order is sent with the notification to the other selected users in a parallel manner".

With respect to claims 4 and 5, "the other users" has been changed to "the other selected users".

With respect to claim 6, the recitation has been clarified to require that "the order is sent with the notification by at least one of electronic mail, chat, instant messaging and tandem browsing".

With respect to claim 8, "the predetermined time" has been changed to "the selected period of time".

Withdrawal of the §112 rejection of claims 1 through 9 is therefore respectfully requested.

Paragraph 2 of the Office Action

Claims 1 through 9 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Pallakoff.

Initially, it is noted that claims 29 through 34 were added in the previous Amendment of the present case, and the addition of these claims does not seem to be acknowledged in the Office Action or to be addressed in the rejection of the other claims in the case. Clarification is respectfully requested.

In the rejection of the claims, it is asserted that:

Pallakoff discloses an electronic retail system in a network connection, e.g. Fig. 1, comprising a data entry device, e.g. 12, 14, a notification system, e.g. block 82, and an aggregator, e.g. 25, block 36, where orders are accumulated over a selected period of time, e.g. 26.

However, claim 1 requires, in part, "a data entry device that facilitates *selection of goods for an order by an originating user* via a network

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connection" and "an accumulator for accumulating orders from the other selected users *for approval by the originating user*". In contrast to this requirement, the Pallakoff patent generally discusses a system in which a seller offers a product for sale, but there is no connection between the seller and the potential buyers, or between the potential buyers. This is evident from the Pallakoff patent at, for example, col. 1, lines 40 through 49, where it is stated that (emphasis added):

The present invention provides a new paradigm for conducting a marketing transaction. Quantity pricing is conventional. However, in a conventional quantity pricing situation, one buyer is offered a series of prices depending upon the number of products purchased. The present invention utilizes the idea of quantity pricing in a new way. The present invention utilizes the internet to aggregate potentially unrelated and potentially totally independent buyers into a buying group. By aggregating the buyers, each buyer receives the advantage of quantity pricing.

Further, in the Summary of the Invention" of the Pallakoff patent at col. 1, lines 53-67, it is stated that (emphasis added):

The present invention provides a marketing method and system that aggregates demand and provides demand based pricing. With the present invention sellers can communicate conditional offers to potential buyers. The conditions include prices that depend on the amount of goods or services that buyers collectively agree to purchase by a given time and date. The invention facilitates "demand aggregation", that is, aggregating demand by potential buyers (who may or may not know each other), for products offered by sellers. This invention allows sellers to conveniently offer "Demand-Based Pricing", that is, prices which go down as the volume of units sold in any given offer goes up. A seller can therefor offer volume discounts to buyers acting as a group, even when the buyers may not have any formal relationship with one another.

Therefore, it is submitted that one of ordinary skill in the art would not recognize that Pallakoff teaches any relationship between users, especially a relationship in which a user originating an order is able to approve orders from other selected users. The Pallakoff patent appears to make it clear that the Pallakoff system "accepts" or "cancels" the offer based upon a threshold quantity set by the seller (not any user originating an order) prior to any

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requests being received by the system (and not after any requests have been received). See, e.g., Pallakoff at col. 5, lines 33 through 37:

If the Aggregate Demand does meet or exceed the lowest Demand Threshold (block 36) then the offer can be accepted (block 37) and the buyers and sellers are notified. Otherwise the offer is cancelled (block 38) due to insufficient demand, and the buyers and sellers are so notified.

It is therefore submitted that one of ordinary skill in the art, considering the teaching of Pallakoff, would not be led to these requirements of claim 1.

Claim 1 further requires "a notification system that provides a notification to other selected users *when an order is placed*". It is alleged in the rejection that the claimed "notification system" is anticipated by "block 82" of the Pallakoff patent. However, block 82 states "*Seller notified that there wasn't enough demand by time-limit, so offer cancelled*" (emphasis added)". It is submitted that the referenced portion of the Pallakoff patent is more likely to lead one of ordinary skill in the art away from the requirement of "provid[ing] a notification to other selected users *when an order is placed*". It would appear that the Pallakoff patent is more likely to lead one of ordinary skill in the art away from notifying other users "when an order is placed", than lead one of ordinary skill in the art to notifying other users of the placement of an order. This is especially true when one of ordinary skill in the art considers that the subsequent block (83) indicates that "[p]otential buyers [are] notified about cancelled offer too", which indicates that *no* responses to the offer will be honored. This conflicts with the claim requirement that an order *is placed*. See, for example, Pallakoff at col. 9, lines 5 through 17 (emphasis added):

As described above, if an offer's Time & Date limit passes (block 32) and Aggregate Demand is still below the lowest Demand Threshold (block 36), then the system proceeds to the "Offer Cancelled" processing stage (block 38). When this occurs, the system stops presenting the offer (block 81) anywhere it had been presenting the offer. The system can display a message on those web sites indicating that the offer has been cancelled. The seller is notified that the offer has been cancelled because of insufficient demand (block

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82). Finally, potential buyers who had expressed interest in joining the Buying Group for this offer are notified that the offer has been cancelled because of insufficient demand (block 83).

It is therefore submitted that one of ordinary skill in the art, considering the Pallakoff patent, would not be led to the requirements of claim 1 of a notification system that "provides a notification to other selected users *when an order is placed*".

It is further alleged in the rejection that:

Pallakoff does not disclose the term originating users and other selected users. However, Official Notice is taken that users of this kind have been common knowledge in the product purchasing art, as were sending an order in a parallel or serial manner and tandem browsing sessions. To have provided such for Pallakoff would have been obvious to one of ordinary skill in the art.

However, it is submitted that such features of the invention that are generally referred to here are not common knowledge, especially in light of the reliance upon the Pallakoff patent which, as noted above, discusses a system in which a *seller* of a product initiates the process of trying to solicit requests from potential customers but the seller lacks any ability to review or disapprove of any of the requests (which is essentially out of the users control once a threshold quantity is set prior to taking any requests for the product), and it is counterintuitive to believe that a seller would reject any requests for a product for which the seller is actively seeking requests.

Further, claim 29 requires that "the accumulator is configured to obtain approval from the originating user before submitting the order", and it is submitted that in view of the above, Pallakoff does not teach any approval by any user, particularly a user originating an order for goods.

It is therefore submitted that the Pallakoff patent set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claim 1. Further, claims 2 through 9,

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which depend from claim 1, also include the requirements discussed above and therefore are also submitted to be in condition for allowance.

Withdrawal of the §103(a) rejection of claims 1 through 9 is therefore respectfully requested.

CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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By 

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